

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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U.S. UNDERWRITERS INSURANCE COMPANY.,

Plaintiff,

-against-

LIBERTY SQUARE REALTY, INC., ALEJANDRO L.
LUCERO-VASQUEZ AND THE CITY OF NEW YORK

Defendants.

-----X

Index No. 08 cv 02780

ANSWER AND CROSS CLAIM

PLEASE TAKE NOTICE that Defendant LIBERTY SQUARE REALTY CORP. appears in this proceeding and that the undersigned has been retained as their attorney, and demands that you serve copies of all papers in this proceeding upon the undersigned at the address stated below.

PLEASE TAKE FURTHER NOTICE that Defendant LIBERTY SQUARE REALTY CORP. interpose the following answer to the Summons and Complaint herein:

1. Lack of personal jurisdiction because the summons and endorsed complaint were not properly served upon defendant in accordance with the CPLR or other applicable laws, no reasonable application was made and/or proof of service thereof is insufficient to sustain personal jurisdiction over respondents.

2. Lack of subject matter jurisdiction.

3. Without waiving the above defenses,

GENERAL DENIAL

4. Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraphs numbered 5 of the complaint.

2. Defendants deny the allegations contained in paragraphs 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, and 34 of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

3. The plaintiff named a wrong defendant in the instant action. LIBERTY SQUARE REALTY, INC. named as the defendant herein is not a corporation organized by and existing under the laws of the State of New York. The party served herein is LIBERTY SQUARE REALTY CORP.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

4. Upon information and belief, the Defendant LIBERTY SQUARE REALTY CORP. had no knowledge of any injuries to defendant ALEJANDRO L. LUCERO-VASQUEZ until the commencement of ALEJANDRO L. LUCERO-VASQUEZ v. CITY OF NEW YORK AND LIBERTY SQUARE REALTY CORP, Index # 17941/2007 ("Underlying Action") in the New York State Supreme Court, Bronx County. Upon

information and belief LIBERTY SQUARE REALTY CORP. did not receive any other notices regarding this incident despite the disclaimer of the Plaintiff in the instant action.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

5. The Defendant LIBERTY SQUARE REALTY CORP complied with the terms of the Plaintiff's Insurance Policy # CL3078836B namely Section IV - Commercial General Liability Conditions (2) Duties In the Event of Occurrence, Offence, Claim or Suite which states that "you and any other involved insured must immediately send us copies of any summonses" and "cooperate with [plaintiff] in the investigation." Immediately upon being served with Summons in the Underlying Action, the Defendant LIBERTY SQUARE REALTY CORP notified the plaintiff and have cooperated with the subsequent investigation by the Plaintiff. The Defendant LIBERTY SQUARE REALTY CORP had no notice of any alleged injury prior to commencement of the Underlying Action.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

6. There exists a privity of contract between the Plaintiff and Defendant LIBERTY SQUARE REALTY CORP wherein the Defendant LIBERTY SQUARE REALTY CORP was insured by the Plaintiff's Insurance Policy # CL3078836B and has paid premiums. The Defendant LIBERTY SQUARE REALTY CORP. complied with the policy rules and as such should be covered by the insurance policy for the incidents which occur in the period of coverage. The Plaintiff has never advised the Defendant LIBERTY SQUARE REALTY CORP during the period of coverage of any modifications and/or cancellation

of the policy. The defendant LIBERTY SQUARE REALTY CORP was in fact insured against incidents such as the one in the Underlying Action.

AS AND FOR A FIRST CROSS CLAIM AGAINST EASTERN WATER PROOFING.

7. The alleged injury suffered by the defendant ALEJANDRO L. LUCERO-VASQUEZ who at the time was employed by Eastern Water Proofing, an independent contractor. If liability is imposed upon the answering Defendant, as alleged in the Complaint of the Underlying Act, the answering Defendant is entitled to a declaration that the liability be apportioned with Eastern Water Proofing and other co-defendant's of the instant action by way of contribution for any and all monetary liability and/or entitled to be indemnified by said parties.

AS AND FOR A FIRST COUNTER CLAIM

8. Defendant repeats and realleges paragraphs 1-7 as though fully set forth herein.

9. As a result of the Plaintiff's failure to honor its contractual obligations the Defendant LIBERTY SQUARE REALTY CORP incurred legal fees and other costs in defending an action.

10. For the foregoing reasons, the Defendant demands that the Plaintiff compensate the Defendant in an amount to be determined at trial.

Wherefore, the answering defendant respectfully requests that the Court grants the first and second Counterclaims in the amount to be determined at trial and for such other and further relief as may be just and proper.

WHEREFORE Defendant respectfully requests judgment:

- a) dismissing the Summons and Complaint against the Defendant;
- b) dismissing the Plaintiff's FIRST, SECOND and THIRD causes of action;
- c) granting Defendants the costs and disbursements of this proceeding, including reasonable attorney's fees; and
- d) granting such other and further relief as this Court may deem just and proper.

DATED: New York, New York
April 16, 2008

Yours, etc.,



Yoram Nachimovsky, Esq.
299 Broadway, Suite 605
New York, New York 10007
(212) 267-1157

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

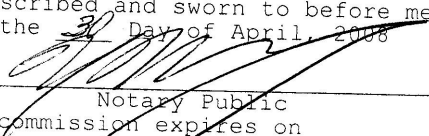
Henry Weinstein, president of LIBERTY SQUARE REALTY CORP. ,
being duly sworn, states as follows:

I am the Defendant herein, and have read the annexed VERIFIED
ANSWER and CROSS CLAIM and know the contents, thereof to be true to
my own knowledge, with the exception to those matters therein
stated to be alleged upon information and belief, and as to those
matters I believe them to be true.



Henry Weinstein, president
LIBERTY SQUARE REALTY CORP.

Subscribed and sworn to before me
on the 3 Day of April, 2008



Notary Public
My commission expires on

YORAM NACHIMOVSKY
Notary Public, State of New York
No. 02NA5015732
Qualified in Kings County
Commission Expires July 26, 2009

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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U.S. UNDERWRITERS INSURANCE COMPANY.,

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AFFIDAVIT OF SERVICE

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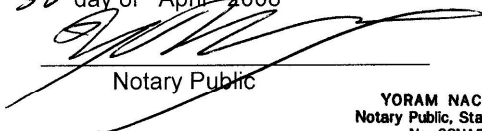
I, Ilan Schwed, being duly sworn, deposes and says:

I am not a party to the action, am over eighteen years of age and reside at 730
Columbus Avenue, Apt 14C, New York, NY.

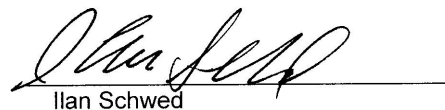
On April 30, 2008, I served the annexed ANSWER AND CROSS CLAIM by
faxing a copy to the number below and by depositing a true copy thereof in a post-paid
wrapper, in an official depository under the exclusive care and custody of the US Postal
Service, within New York State, addressed to Steven Verventiotis, Esq., Attorney for
Plaintiff, having an address of

Miranda Cokoloff Sambursky Slone Verventiotis LLP
Steven Verventiotis, Esq.
240 Mineola Boulevard
Mineola, NY 11501
Fax: 516-741-9060

Sworn to before me this
30 day of April, 2008



Notary Public



Ilan Schwed

YORAM NACHIMOVSKY
Notary Public, State of New York
No. 02NA5015732
Qualified in Kings County
Commission Expires July 26, 2009

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ANSWER AND CROSS CLAIM

Yoram Nachimovsky, Esq.
299 Broadway, Suite 605
New York, NY 10007
(212) 267-1157
(212) 267-1199

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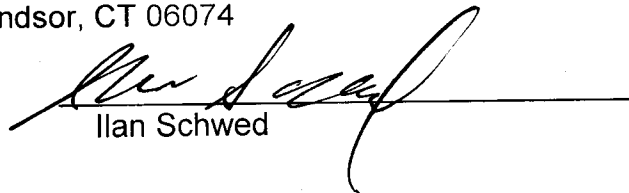
On May 7 2008, I served the annexed ANSWER AND CROSS CLAIM by
depositing a true copy thereof in a post-paid wrapper, in an official depository under the
exclusive care and custody of the US Postal Service, within New York State, addressed
to Eastern Waterproofing Co, Inc. at:

Eastern Waterproofing Co., Inc.
P.O. Box 504
South Windsor, CT 06074

Sworn to before me this
7th day of May, 2008



Notary Public



Ilan Schwed

NICHOLAS RATUSH
NOTARY PUBLIC, State of New York
No. 02RA6150764
Qualified in Kings County
Commission Expires August 7, 2010